

TRANSCRIPT OF PROCEEDINGS BEFORE  
THE SENATE OF THE STATE OF TEXAS  
EIGHTY-SECOND LEGISLATURE  
(COMMITTEE OF THE WHOLE SENATE)

AUSTIN, TEXAS

IN RE:

CONSIDERATION OF  
SENATE BILL 14

SS  
SS  
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COMMITTEE OF THE WHOLE SENATE

TUESDAY, JANUARY 25, 2011



BE IT REMEMBERED THAT AT 8:05 a.m., on Tuesday, the 25th day of January 2011, the above-entitled matter continued at the Texas State Capitol, Senate Chamber, Austin, Texas, before the Committee of the Whole Senate. The following proceedings were reported by Aloma J. Kennedy, Lorrie A. Schnoor and Kim Pence, Certified Shorthand Reporters.

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## CONSIDERATION OF SENATE BILL 14 1/25/2011

1 CHAIRMAN DUNCAN: All right. Thank you,  
2 Ms. McGeehan.

3 The Chair recognizes Senator Davis.

4 QUESTIONS FROM SENATE FLOOR

5 SEN. DAVIS: Hello. Good evening. Thank  
6 you so much for being here with us to provide answers  
7 for our questions. I know you've had a long day.

8 I just want to ask you a few questions  
9 about the current state of voter education as its taking  
10 place today in the Secretary of State's Office. Can you  
11 describe for us the use of the HAVA funds and how those  
12 are currently being used today?

13 MS. McGEEHAN: We received -- when  
14 Congress passed the Help America Vote Act, the state of  
15 Texas received a set amount of funds. And pursuant to  
16 the Help America Vote Act, there are certain purpose  
17 areas that we can use those funds for, and one of the  
18 purpose areas is voter education. So since two -- we  
19 have conducted three statewide education -- voter  
20 education programs, one in 2006, one in 2008 and one in  
21 2010 using those federal dollars. And they have been --  
22 we've worked with a public education firm to do  
23 research, and then they develop creative material. We  
24 run PSAs on TV, radio. In this last cycle, 2010, we  
25 used the Internet quite a bit as well.

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1 SEN. DAVIS: That's the amount that was  
2 given to the state of Texas?

3 MS. McGEEHAN: Yes.

4 SEN. DAVIS: Okay. And so of that amount,  
5 how much have we spent so far?

6 MS. McGEEHAN: Let's see here. We -- I  
7 think we have spent \$177,798,488.

8 SEN. DAVIS: Okay. And you described  
9 spending about \$3 million over the last three two-year  
10 cycles. How have we spent the balance of that?

11 MS. McGEEHAN: Well, I mean, the bulk of  
12 the money or about half of the money went to counties to  
13 obtain HAVA compliant voting systems, electronic voting  
14 systems that made -- that complied with HAVA and allowed  
15 disabled voters to vote independently. So let's see.  
16 \$140 million went to the counties for that purpose.

17 The other program areas are for developing  
18 a statewide voter registration system. We've spent  
19 25 million on that. And then as far as the  
20 administrative expenses, we've spent about 2.8 million  
21 on that. For voter education, we've spent 9.5 million  
22 so far.

23 SEN. DAVIS: And what are the -- setting  
24 aside the requirements of the bill that's being  
25 introduced today, what are the intended plans for the

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1 budget that I discussed is following that state plan.

2 SEN. DAVIS: Okay. And under that state  
3 plan right now, what portion of funding remains for  
4 voter education?

5 MS. McGEEHAN: For voter -- okay. And  
6 actually to be more precise, what the -- the purpose  
7 area for voter education is for voter education and also  
8 for election official and poll worker training; that's  
9 grouped. And the amount remaining is between 5 and  
10 \$7 million.

11 SEN. DAVIS: Okay. And that is expected  
12 to extend us or to take us through the next how many  
13 years under that plan?

14 MS. McGEEHAN: It will -- again, it's  
15 going to depend how extensive our next few voter  
16 education programs are because that's what the bulk of  
17 the money has been spent on, voter education programs.  
18 The average is about 3 million. So I guess the hope  
19 might be for at least two other statewide voter  
20 education programs.

21 SEN. DAVIS: Okay. And I'm sure you've  
22 seen the fiscal note that was a part of this bill. And  
23 by the way, I think it would be very helpful if you  
24 would enter that state plan into the record as an  
25 exhibit for our further use.

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1 but it's hard for me to say today exactly how much that  
2 may take away from future voter education efforts.

3 SEN. DAVIS: When was the last time in the  
4 state of Texas we made any changes of significance to  
5 the voter rules?

6 MS. McGEEHAN: Probably the -- when we had  
7 to implement the federal Help America Vote Act. That's  
8 when provisional voting became a requirement. There  
9 were significant changes to voter registration as to  
10 what's required to become a registered voter, and that's  
11 why we have these HAVA dollars for voter education.

12 SEN. DAVIS: And that began in '06.  
13 Correct?

14 MS. McGEEHAN: Correct.

15 SEN. DAVIS: Okay. In '06, the Texas  
16 voter registration application form changed in  
17 accordance with those requirements, it's my  
18 understanding, and that's when we began to collect this  
19 data that requested a driver's license number or a  
20 social security number. Is that's correct?

21 MS. McGEEHAN: That's correct.

22 SEN. DAVIS: Okay. So we have data, I  
23 guess, only from '06, and that would -- would that only  
24 be then for new registrants from '06? If I had already  
25 registered to vote prior to that, you wouldn't have that

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1 percent number, but the actual number is 2.3 million  
2 since 2006. Since January 1, 2006 through December 31,  
3 2010, 2.3 million, when they registered, provided their  
4 driver's license number.

5 SEN. DAVIS: What's the total number of  
6 applications in that time period?

7 MS. McGEEHAN: And the total number -- I  
8 think it's going to be just under 3 million, and I'm  
9 doing math on the fly. I might have to -- I'd prefer to  
10 give that --

11 SEN. DAVIS: Can you provide that  
12 information --

13 MS. McGEEHAN: Yes.

14 SEN. DAVIS: -- to us?

15 MS. McGEEHAN: Yes.

16 SEN. DAVIS: That would be appreciated.

17 So what's the number of people who are not  
18 filling out either the driver's license number or the  
19 social security number in Section 8 but instead are  
20 going to Section 9 and signing the attestation clause of  
21 Section 9?

22 MS. McGEEHAN: And that's the attestation  
23 clause saying they have not been issued either form of  
24 ID?

25 SEN. DAVIS: (Nodded)

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1 was optional. It was on the form.

2 SEN. DAVIS: Uh-huh. Okay. So we really  
3 don't know how many of that group were answering the  
4 question voluntarily because they have the number versus  
5 those who were not answering it, not because they chose  
6 to, but because they did have their driver's license  
7 number?

8 MS. McGEEHAN: Yes, you are correct.

9 That's right.

10 SEN. DAVIS: So when we're putting  
11 together an estimate of what the cost to educate our  
12 voters is going to be and when we think about how  
13 significant the changes are that are addressed in this  
14 bill, what's your -- what's your process been to try to  
15 determine how many people will be impacted and what that  
16 voter education is going to need to look like?

17 MS. McGEEHAN: Well, we -- I mean, to be  
18 very honest, we haven't done much planning yet. We  
19 prepared this fiscal note on Friday. That would be  
20 obviously a very important component is trying to  
21 identify who the appropriate audiences are, who you need  
22 to get the information out to.

23 Senator Williams had approached us earlier  
24 today to see if we could do some comparisons to try and  
25 further focus in on who those registered voters are that

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1 what's required in order to vote in the state of Texas.  
2 Why is the number to educate -- on such a sweeping  
3 change for what will likely be a much larger group of  
4 impacted people in the state of Texas, why is that  
5 number so much lower than the \$3 million number that's  
6 currently being spent for voter education?

7 MS. McGEEHAN: Well, if the -- if a  
8 \$2 million program is added into an existing \$3 million  
9 program, then you've got a \$5 million program. I mean,  
10 our voter education under HAVA is directed to all  
11 registered voters. And so, you know, a new voter -- a  
12 new photo ID requirement would also need to be directed  
13 to all registered voters because it's a change for all  
14 voters.

15 SEN. DAVIS: So we're talking about -- I'm  
16 sorry to interrupt you. We're talking a \$2 million  
17 addition to the \$3 million that was already intended for  
18 voter education in this next two-year cycle.

19 MS. McGEEHAN: Possibly, possibly. I  
20 mean, we -- you know, we've got a communications  
21 director that would have some input on that. This  
22 fiscal note represented what we thought might be a  
23 reasonable fiscal note. If we have, you know,  
24 legislative direction to take it a different way or do  
25 additional outreach, that's fine. But based on the way

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1 really nice to have them to do that. We never had that  
2 kind of funding before. So if there's a desire to do  
3 voter education programs of this -- of this type, then  
4 we would need state appropriation.

5 SEN. DAVIS: So these federal funds will  
6 take us basically through a one-time voter education  
7 drive on the requirements of this new law, but it's not  
8 going to take us further than that?

9 MS. McGEEHAN: Not if we use it all,  
10 not -- it could possibly use up the remainder of the  
11 voter education funds.

12 SEN. DAVIS: Okay. So we've talked about  
13 the voter education. Talk to us a little bit about the  
14 costs of training the poll workers and the registrars.

15 MS. McGEEHAN: We currently have several  
16 training programs for -- well, we have training programs  
17 for the county election officials and then other  
18 training programs for the poll workers. We have an  
19 online training program. We have a video. We have  
20 handbooks. So we would have to update all of those --  
21 all those different formats of training.

22 SEN. DAVIS: And what's the anticipated  
23 costs for updating all those forms of training?

24 MS. McGEEHAN: We don't usually put a  
25 fiscal note when there's a change in state law and we

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1 MS. McGEEHAN: It's my understanding that  
2 when we've been asked to prepare fiscal notes for these  
3 kinds of issues, we have not added a fiscal impact for  
4 something that's already a statutory duty. As we  
5 analyze HB 1, maybe we're going to have to revise that,  
6 but at least our standing policy was if it was a  
7 statutory duty that we're already charged to do, that we  
8 don't put an additional fiscal note on it.

9 SEN. DAVIS: Are you concerned that you're  
10 going to find yourselves fairly flatfooted in terms of  
11 not being prepared with the resources that you need, to  
12 train election workers and to train county  
13 administrators on the requirements of this new law  
14 facing the budget cuts that you're facing without a  
15 fiscal note that's going to add resources to your  
16 department for purposes of carrying out these  
17 requirements?

18 MS. McGEEHAN: I think all state agencies  
19 in the state have concerns about providing the services  
20 they are charged to provide in light of significant  
21 budget cuts. But on the issue of training, the analysis  
22 was that that was not going to cost anything additional  
23 as to what we've already been appropriated.

24 SEN. DAVIS: And do you agree with that,  
25 that it's not going to cost anything additional for your

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1 numbered year, we hold four seminars, and we have very  
2 good attendance from our county election officials. So  
3 I would be certain that our August county election  
4 official seminar will be heavily -- if this passes will  
5 heavily emphasize these new rules.

6 To go back to the federal funds, which we  
7 know are limited, the grant for voter education also  
8 includes election official training and poll worker  
9 training. So if there are any remaining HAVA dollars in  
10 that category that we don't use on voter education, we  
11 could perhaps use to additional -- to develop additional  
12 training materials.

13 SEN. DAVIS: Yes, and we talked about that  
14 a moment ago, and you did state on the record that that  
15 category of 5 to \$7 million that's remaining is the  
16 entirety of the federal resource that you have available  
17 to you right now, both for voter education and for  
18 training purposes. And we've also talked about the fact  
19 that the expectation and the demand on that particular  
20 fund for public education is going to take the  
21 significant balance that remains there. Correct?

22 MS. McGEEHAN: Right. Well, just to be  
23 clear, the remaining balance in the HAVA is all we have  
24 for voter education, but there are some state funds -- I  
25 don't think it's a lot -- but that would go towards

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1 MS. McGEEHAN: Okay. I think that what  
2 that is referring to is that at the end of Senate  
3 Bill 14, there's a reference that says county voter  
4 registrars can use Chapter 19 funds to defray costs in  
5 conducting a voter registration drive. But I don't see  
6 anything -- and I may have missed it -- but I don't see  
7 anything in Senate Bill 14 that requires a voter  
8 registration drive. I think it's -- what that section  
9 in the bill is doing is trying to make clear that these  
10 funds, which are -- go to county voter registrars to  
11 enhance voter registration could be used to do voter  
12 registration drives, but I don't see anything that  
13 requires a voter registration drive in Senate Bill 14.

14 SEN. DAVIS: What resources currently are  
15 expected of our local governments in carrying out the  
16 training and the public awareness programs under our  
17 election code.

18 MS. McGEEHAN: The -- there's no state law  
19 requirement to do voter education by the county  
20 officials. Most of them do it as a public service  
21 because they want to, but there's not a mandate under  
22 state law to do that.

23 Under Senate Bill 14, there's required  
24 training of poll workers on the new photo ID  
25 requirements. And I may have missed part of your

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1 currently on the roll because I've married or I've  
2 divorced, how is that situation handled today?

3 MS. McGEEHAN: State law doesn't directly  
4 address it. So I think that as a practical matter  
5 what's happening is the poll workers are making judgment  
6 calls as they qualify those voters for voting.

7 SEN. DAVIS: But they are not being given  
8 guidance or rules or requirements in terms of how they  
9 are to deal with that situation today?

10 MS. McGEEHAN: No.

11 SEN. DAVIS: It's within their discretion?

12 MS. McGEEHAN: At this point. I mean,  
13 state law is silent on it, and our office has not issued  
14 any guidance on it. So we're hearing a lot about that  
15 today. That's definitely something we'll probably need  
16 to look into, but right now there is no rule or statute  
17 on that issue.

18 SEN. DAVIS: Okay. And today if I go to  
19 vote and my identification that I use for purposes of  
20 voting has a different address on it than is listed on  
21 the precinct roll, I think it's the interpretation today  
22 under 2004 Secretary of State opinion that I am asked  
23 for my correct address, and I am to be believed if I say  
24 that my address is the address that's on the precinct  
25 list as opposed to what might be on my ID?

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1 SEN. DAVIS: And what steps would the  
2 Secretary of State's Office engage in to assure that the  
3 ID wasn't being used to establish an understanding of  
4 the voter's residency?

5 MS. McGEEHAN: Would definitely, I think,  
6 be included in our training materials to emphasize that.

7 SEN. DAVIS: Currently, is there any  
8 information that the Secretary of State's Office gathers  
9 that breaks down by category voters in the state? And  
10 when I say "by category," I mean by race, by gender, by  
11 disability, by age.

12 MS. McGEEHAN: We have some information.  
13 We have -- we have age for sure. On gender -- we have  
14 some information on gender, but it's not conclusive  
15 because gender is now -- it used to be a required  
16 element on the voter registration application. In 1995,  
17 it was taken -- or it became optional after the National  
18 Voter Registration Act. So we have some data on gender,  
19 but, again, it's not complete.

20 Regarding ethnicity, we really -- we don't  
21 have any information like that because it's not  
22 collected when a person applies to register to vote.  
23 The only data that we do have is we do have the number  
24 of voters that have an Hispanic surname. And so we can  
25 run the list of registered voters against this list of

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1 to have some way to collect it. So we could revisit  
2 putting that question or adding that as a question to  
3 the voter registration application. I'd be happy to  
4 visit on ways where we could try and collect that, but  
5 right now we would not have the tools that we would need  
6 to be able to collect that data.

7 SEN. DAVIS: It seems rather important as  
8 implementation of this law advances that that  
9 information be made available for the Justice Department  
10 review as well as any judicial review that might occur  
11 in terms of the impact of the implementation of the law.

12 I believe that's all the questions I have  
13 for you. Thank you so much.

14 MS. McGEEHAN: Thank you.

15 CHAIRMAN DUNCAN: The Chair recognizes  
16 Senator West.

17 SEN. WEST: Thank you very much,  
18 Mr. Chairman. Many of the questions Senator Davis has  
19 already asked, but have you had a chance to look at the  
20 bill as introduced?

21 MS. McGEEHAN: Yes.

22 SEN. WEST: Okay. Do you happen to have  
23 it there in front of you?

24 MS. McGEEHAN: Yes, I do.

25 SEN. WEST: Okay. Great. Before I get

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1 MS. McGEEHAN: That's correct. And just  
2 an example of that, the cost that Bexar County put in  
3 the fiscal note was -- I think their assumption was that  
4 the certificate, the voter registration certificate  
5 would have to increase in size. And I don't see  
6 anything in the bill that requires that. And the  
7 Secretary of State prescribes the form. So once that's  
8 explained to the county, they might withdraw that  
9 fiscal --

10 SEN. FRASER: I want to make sure that  
11 that's clear, is that some of these assumptions are  
12 possibly the-sky-is-falling assumptions that this is --  
13 you know, this expense is going to be put on us, and I  
14 don't think that's been discussed. And some of this, I  
15 think, can be done by ruling of the Secretary of State,  
16 directing them. And there is a real good chance that a  
17 lot of these expenses go away that can be absorbed  
18 through the Secretary of State. And that is correct,  
19 isn't it?

20 MS. McGEEHAN: Yes.

21 SEN. FRASER: Okay. I wanted to clear  
22 that up. Thank you so much.

23 CHAIRMAN DUNCAN: The Chair recognizes  
24 Senator Williams.

25 SEN. WILLIAMS: Thank you, Mr. Chairman.

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1 had talked earlier about the project that I asked you to  
2 do, to cross-reference the driver's licenses and the  
3 voter registration. How is that coming along? I know I  
4 only asked today, but I just --

5 MS. McGEEHAN: Yes.

6 SEN. WILLIAMS: -- but what is a  
7 reasonable expectation for us to get that information?

8 MS. McGEEHAN: I would hope by the end of  
9 the week. One thing that our IT folks and our election  
10 experts are trying to struggle with is like matching  
11 criteria --

12 SEN. WILLIAMS: Right.

13 MS. McGEEHAN: -- you know, which we won't  
14 have a TLD number, so we're working through some of  
15 that. But I would expect by the end of the week we  
16 would have it, if not earlier.

17 SEN. WILLIAMS: Okay. So do you need any  
18 further direction from us? For instance, if we wanted  
19 to target that universe of people that we know are out  
20 there and maybe make a little extra effort to make sure  
21 that they understood they were going to have a new  
22 requirement when they went to vote as far as getting a  
23 photo ID, if they didn't already have one -- and we've  
24 identified who they are -- if we gave legislative intent  
25 as a part of the bill tomorrow, would that be sufficient

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